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Message Text

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ACTION ARA-20

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C O N F I D E N T I A L LIMA 7798

E.O. 11652: GDS
TAGS: PINT, PE
SUBJECT: MILITARY VERSUS COURTS

1. SUMMARY. MILITARY GOVERNMENT PRESSURE ON SUPREME COURT HAS LED TO RESIGNATION OF THREE OF ITS SIXTEEN JUSTICES. THIS INCIDENT, WHICH MAY GROW IN NEXT DAYS, WILL FUTHER WIDEN CHASM DIVIDING MIDDLE CLASSES AND MILITARY RULERS, WHO SEEM TO BE INTENT ON BENDING PERUVIAN LAW TO SERVE THEIR REVOLUTION.

2. ON OCTOBER 11, THE CRIMINAL CHAMBER OF THE PERUVIAN SUPREME COURT ABSOLVED VINCENT UGARTE DE PINO, DEAN OF THE BAR ASSOCIATION, OF VIOLATING THE "FREEDOM OF THE PRESS STATUTE" BUT CONFIRMED CONVICTION OF JUAN BARDELLI FOR VIOLATING SAME STATUTE. BARDELLI RECEIVED SIX-MONTH SUSPENDED JAIL SENTENCE. CHARGES AROSE WHEN LIMA BAR ASSOCIATION ANNOUNCED THAT BARDELLI WAS REVIEWING CONDUCT OF AN UNNAMED MEMBER OF NATIONA COUNCIL OF JUSTICE (CNJ). STORY LEAKED IN PRESS THAT ALFONSO MONTESINOS OF CNJ WAS OBJECT OF STUDY AND LATTER ACCUSED UGARTE AND BARDELLI OF SLANDERING HIM IN PRESS.

3. MONTESINOS AS MEMBER OF CNJ, WHICH MILGOV CREATED IN 1969 TO HIRE, FIRE AND INVESTIGATE JUDGES, REPORTEDLY
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USED HIS POSITION TO OBTAIN FAVORABLE RULINGS FOR HIS

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CLIENTS. THIS APPARENTLY UNETHICAL BEHAVIOR LED THE BAR ASSOCIATION IN APRIL 1973 TO LOOK INTO THE MATTER. THE CASE QUICKLY BALLOONED INTO A POLITICAL BATTLE BETWEEN THE CONSERVATIVE, CONSTITUTIONALIST BAR ASSOCIATION AND THE MILITARY GOVERNMENT.

4. THE MILGOV WAS APPARENTLY SO INTENT ON CONVICTING ITS ARCH-CRITIC, DEAN UGARTE, THAT IT REPORTEDLY SENT THREE GENERALS TO PERSUADE THE SUPREME COURT TO CONVICT UGARTE OF VIOLATING THE PRESS LAW. THE COURT, HOWEVER, 43*7 3$ 59 ?92 59 09)8CAL PRESSURE AND ACQUITTED UGARTE. THIS LED PRESIDENT VELASCO TO BLAST THE COURT AT HIS OCTOBER 17 PRESS CONFERENCE AND TO STATE THAT THE REVOLUTION WAS ABOVE PERU'S FORMER LAWS. CON-CURRENTLY, THE NATIONAL COUNCIL OF JUSTICE ANNOUNCED THAT IT WAS INVESTIGATING THE FIVE JUDGES WHO RENDERED DECISION.

5. ONE INVESTIGATED JUDGE RESIGNED IMMEDIATELY WHILE ANOTHER, CESAR BARROS CONTI, SENT A DEVASTATING LETTER TO THE PRESS, WHICH WAS PUBLISHED BY MAJOR DAILIES ON OCTOBER 23. LETTER NOT ONLY CONVINCINGLY ARGUED UGARTE INNOCENCE BUT CONFIRMED THAT MONTESINOS OF CNJ HAD ACTED UNETHICALLY. AS RESULT HIS LETTER, BARROS FEARS FOR HIS LIFE AND HAS APPROACHED ARGENTINE EMBASSY CONCERNING ASYLUM. (EMBASSY DOUBTS THAT MILGOV WOULD DO MORE THAN DEPORT BARROS, AND PROBABLY UGARTE TOO, BUT ASYLUM WOULD BE FAR MORE DRAMATIC. ARGENTINE EMBOFF HAS COMMENTED TO US EMBOFFS THAT HIS GOVERNMENT COULD NOT EASILY TURN DOWN SUPREME COURT JUSTICE.)

6. ON OCTOBER 24, PRESS FRONT-PAGED RESIGNATIONS OF TWO SUPREME COURT JUSTICES WHO NOT INVOLVED IN CASE BUT WHO CLEARLY PROTESTING MILGOV INTERFERENCE IN JUDICIAL PROCESS. ON SAME DATE, BOTH MAJOR NEWSPAPERS CARRIED EDITORIALS DISCUSSING GRAVITY OF PRESENT SITUATION AND EMPHASIZING IMPORTANCE OF AN INDEPENDENT JUDICIARY.

7. COMMENT: THREE SUPREME COURT RESIGNATIONS, WHICH CONFIDENTIAL

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MAY GROW IN NUMBER, PROVIDE ALIENATED BUT TIMID PERUVIAN MIDDLE CLASSES WITH ANOTHER GRUDGE AGAINST THEIR MILITARY RULERS. THERE IS NO EVIDENCE, HOWEVER, THAT SUCH RESIGNATIONS MAY RESULT IN ANY SORT OF EFFECTIVE OPPOSITION ACTION AGAINST THE GOVERNMENT. DEAN UGARTE TOLD EMBOFFS THAT POLITICAL PARTIES (PARTICULARLY APRA) AND PROFESSIONAL ASSOCIATIONS (SUCH AS DOCTORS AND ENGINEERS) SUPPORT HIM PRIVATELY BUT THAT NO ONE IS

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WILLING STICK OUT NECK AND CRITICIZE MILGOV AS UGARTE
HAS.
BELCHER

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